

REMARKS

Response to Quayle Action

Language on page 2 of the instant Office Communication indicates that the subject application is in condition for allowance except for the following formal matters:

The submission of **the** executed Terminal Disclaimer discussed in the remarks section of the amendment received 3/15/09.

Applicant would like to thank Examiner Lewis for this opportunity to correct the record. Applicant respectfully submits that no amendment was filed on 3/15/09 but that the record indicates an intended submission of **a** (singular) terminal disclaimer along with the amendment filed on March 6, 2007. Applicant believes that a total of seven (7) terminal disclaimers should have been filed simultaneously therewith to address potential double patenting rejections, and the present submission addresses that formal matter and corrects the record. The following is a description of the double patenting obviousness-type double patenting and provisional obviousness-type double patenting rejections presented in an office action dated May 15, 2006 and the currently submitted executed terminal disclaimers:

1. Over U.S. Patent No. 6,822,133 in view of U.S. Patent No. 6,329,564

The Examiner asserted that claims 1, 3-20 and 22-38 were unpatentable under the judicially created doctrine of obviousness-type double patenting over claims 1 and 7 of U.S. Patent No. 6,822,133 (Lebner '133) issued to Lebner in view of U.S. Patent No. 6,329,564 issued to Lebner (Lebner '564). Applicant herewith submits an executed SB/26 form disclaiming the terminal portion of any patent granted on the instant application that extends beyond the Lebner '133 patent's full statutory term of 20 years. With respect to Lebner '564, amendments and arguments submitted on November 29, 2007, July 25, 2008, January 21, 2009 and October 28, 2009 address this reference. Namely, the proposed combination of references neither teaches nor suggests an elastic polymeric material not reinforced with an inelastic structural component. Specifically, an amendment to the claims filed on July 25, 2008 overcame a rejection under 35 USC 103(a) in view of the '564 Lebner reference.

2. Over co-pending Application No. 10/625,937 in view of LUTRI et al.

The Examiner asserted that claims 1, 4-20 and 23-38 were unpatentable under the judicially created doctrine of provisional obviousness-type double patenting over claims 1, 3-18 and 20-34 of copending Application No. 10/625,937 in view of U.S. Patent Application Publication No. 2004/0106888 to LUTRI et al. Applicant herewith submits an executed SB/25 terminal disclaimer form.

3. Over co-pending Application No. 10/626,783 in view of LUTRI et al.

The Examiner asserted that claims 1, 4-20 and 23-38 were unpatentable under the judicially created doctrine of provisional obviousness-type double patenting over claims 1, 3-19 and 21-36 of copending Application No. 10/626,783 in view of U.S. Patent Application Publication No. 2004/0106888 to LUTRI et al. Applicant herewith submits an executed SB/25 terminal disclaimer form.

4. Over co-pending Application No. 10/625,785 in view of LUTRI et al.

The Examiner asserted that claims 1, 4-13, 17-20, 23-32, 34 and 36-38 were unpatentable under the judicially created doctrine of provisional obviousness-type double patenting over claims 1-12, 16-30 and 32-34 of copending Application No. 10/625,785 in view of U.S. Patent Application Publication No. 2004/0106888 to LUTRI et al. Applicant believes that Application No. 10/626,785 was intended to indicate the copending reference instead of Application No. 10/625,785, which pertains to an unrelated application submitted by an unrelated applicant. Applicant herewith submits an executed SB/26 terminal disclaimer form because application 10/626,785 has now matured into US Patent No. 7,354,446.

5. Over co-pending Application No. 10/625,936 in view of LUTRI et al.

The Examiner asserted that claims 1, 4-20 and 23-38 were unpatentable under the judicially created doctrine of provisional obviousness-type double patenting over claims 1-34 of copending Application No. 10/625,936 in view of U.S. Patent Application Publication No. 2004/0106888 to LUTRI et al. Applicant herewith submits an executed SB/26 terminal disclaimer form because application 10/626,936 has now matured into US Patent No. 7,414,168.

6. Over co-pending Application No. 10/938,163 in view of LUTRI et al.

The Examiner asserted that claims 1 and 20 were unpatentable under the judicially created doctrine of provisional obviousness-type double patenting over claims 1 and 16 of copending Application No. 10/938,163 in view of U.S. Patent Application Publication No. 2004/0106888 to LUTRI et al. Applicant herewith submits an executed SB/26 terminal disclaimer form because application 10/938,163 has now matured into US Patent No. 7,511,185.

7. Over U.S. Patent No. 6,831,205 in view of LUTRI et al.

The Examiner asserted that claims 1 and 20 were unpatentable over claims 1 and 16 of U.S. Patent No. 6,831,205 in view of U.S. Patent Application Publication No. 2004/0106888 issued to LUTRI et al. under the judicially created doctrine of obviousness-type double patenting. Applicant herewith submits an executed SB/26 terminal disclaimer form.

8. Over U.S. Patent No. 6,831,205 in view of LUTRI et al. in further view of U.S. Patent No. 6,329,564 issued to LEBNER.

The Examiner asserted that claims 1 and 20 were unpatentable under the judicially created doctrine of an obviousness-type double patenting rejection over claims 1 and 16 of copending Patent No. 6,831,205 in view of U.S. Patent Application Publication No. 2004/0106888 issued to LUTRI et al. and further in view of Lebner '564. Applicant notes that an executed terminal disclaimer form SB/26 is herewith submitted addressing the '205 patent. With respect to Lebner '564, amendments and arguments submitted on November 29, 2007, July 25, 2008, January 21, 2009 and October 28, 2009 address this reference. Namely, the proposed combination of references neither teaches nor suggests an elastic polymeric material not reinforced with an inelastic structural component. Specifically, an amendment to the claims filed on July 25, 2008 overcame a rejection under 35 USC 103(a) in view of the '564 Lebner reference.

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Summary

In light of the above amendment, consideration of the subject patent application is respectfully requested. Any deficiency or overpayment should be charged or credited to Deposit Account No. 504514.

Respectfully submitted,

/Kevin M. Farrell/  
Kevin M. Farrell  
Attorney for Applicants  
Registration No. 35,505

April 30, 2010  
Pierce Atwood, LLP  
One New Hampshire Avenue, Suite 350  
Portsmouth, NH 03801  
603-433-6300